

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #12: LAFCO 3049 – City of San Bernardino Annexation
No. 359 (Del Rosa Island)

INITIATED BY:

City Council Resolution, City of San Bernardino

RECOMMENDATION:

The staff recommends that the Commission approve LAFCO 3049 by taking the following actions:

1. Adopt the Statutory Exemption that has been recommended for this proposal, and direct the Clerk to file a Notice of Exemption within five (5) days of this action;
2. Approve LAFCO 3049 – City of San Bernardino Annexation No. 359 as an island annexation, as defined in Government Code Section 56375.3, with the following conditions:
 - a. That the City of San Bernardino's 8% utility tax will not be extended to the annexation area;
 - b. That the City of San Bernardino shall succeed to the special tax authorized County Service Area 38 Improvement Zone L for paramedic services upon successful completion of this annexation. The City shall succeed to all rights, duties and powers for the administration of this special tax as a function of this annexation, as more specifically identified in the attached draft resolution;
 - c. All streetlights currently the responsibility of County Service Area SL-1 within the annexation area shall be transferred to the City of

San Bernardino upon successful completion of the annexation. The County Special Districts Department shall prepare the appropriate documentation to transfer the lights, LAFCO staff shall verify the data, and the City of San Bernardino shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of San Bernardino accounts; and,

- d. The standard terms and conditions of approval that include the “hold harmless clause for potential litigation.
3. Waive the protest proceedings, as permitted by Government Code Section 56375.3; and,
4. Adopt LAFCO Resolution #2924 setting forth the Commission’s findings and determinations concerning this proposal.

BACKGROUND:

LAFCO 3049 is a proposed annexation of a totally surrounded unincorporated island of territory located in the eastern sphere of influence of the City of San Bernardino. The annexation, as initiated by the City, includes approximately 99 +/- acres generally bordered by State Highway 30 on the north, a combination of Del Rosa and Park Avenues on the east, by parcel lines below Orchid Drive on the south, and parcel lines westerly of Mountain Avenue on the west. This totally surrounded island is a part of the area that has been the subject of media coverage, increased law enforcement activity, and concerns of elected officials following the tragic death of Mynisha Crenshaw. In response to their efforts to step up law enforcement services in the surrounding area, the City Council directed its staff to initiate this island annexation proposal. The annexation, as initiated by the City, is intended to clarify the City’s boundaries in this area to provide for more efficient and effective delivery of all City services, but most importantly law enforcement and code enforcement services. Location and vicinity maps and the City’s application are included as Attachments #1 and #2 respectively to this report.

In the staff’s view, the proposal before the Commission is essentially a ministerial action. This position is taken on the basis of Government Code Sections 56375(a) and 56375.3 which require the Commission to approve the annexation of island territory if several basic findings are made concerning the size of the island, the configuration of city boundaries, the lack of prime agricultural land within the island area, the presence of development in the area, and the ability of the study area to benefit from or use municipal services from the City. Copies of these Code Sections are included for Commission review as Attachment #3 to this report. A response to these findings is presented below and the staff suggests that the findings are clear and easily made in this case as follows:

- The study area is less than 150 acres, and consists of the entire island of unincorporated territory.
- The study area is entirely surrounded by the City of San Bernardino and is within the City of San Bernardino sphere of influence.
- The study area is substantially developed or developing, based on findings that there is the availability of public services, there is the presence of public improvements in the area, and there are physical improvements on many, if not most, of the properties.
- There is no prime agricultural land within the study area.
- The study area will benefit from the availability of municipal services from the City of San Bernardino.

As noted above, in the staff's view these findings are clear; therefore, the Commission is required by Government Code Section 56375(a) to approve this proposal.

The following provides abbreviated responses to the balance of the issues which the Commission reviews and considers in all annexation proposals – land use, service effects and the effect on other levels of government and environmental considerations.

LAND USE:

The City of San Bernardino's recent General Plan Update carried forward the pre-zoning for this area. The City's land use designations for the area are as follows: "RM" residential medium allowing for up to 14 dwelling units per gross acre, "RS" residential suburban allowing for up to 4.5 dwelling units per gross acre, and "CG" commercial general. These pre-zone designations will need to be maintained for a two-year period following annexation (Government Code Section 56735 (e)) unless specific determinations are made by the City Council at a public hearing.

In addition, LAFCO staff and members of the City and County Planning staffs have met to review issues related to the handling of the transition of land use projects from the County to the City. It has been identified that there are three projects currently in process at the County affected by this action. The City, by letter included as Attachment #4 to this report, outlines that it will honor the County's land use approvals for these projects and will assume responsibility for assurance of compliance with the County's conditions of approval reserving, however, the right to require compliance with City design standards and on-site improvement

plans. The City's letter also indicates that if there are other projects not identified specifically, they will be treated in the same manner by City staff.

SERVICE ISSUES AND EFFECTS ON OTHER LEVELS OF GOVERNMENT

The City of San Bernardino has provided a "Plan for Service" for this proposal as required by law and as modified by Commission policy. A copy of the Plan is included as part of Attachment #2 to this report. Highlights of the Plan and related information include the following:

- Sewage collection services are currently provided within the area by the East Valley Water District. No change in this service will take place on the basis of the annexation.
- Water service is provided to the project area by the East Valley Water District. No change in this service will take place on the basis of the annexation.
- Law enforcement responsibilities will shift from the County Sheriff's Department, which operates out of the downtown Sheriff facility, to the City of San Bernardino Police Department. The City indicates that its Police Department will absorb this territory into its existing beat system surrounding the site. The City has indicated that an additional police officer will be required in order to provide its level of service. The financing of this service will be through the ad valorem property tax received by the City from within the annexation area.
- Solid waste services are currently provided within the annexation area by Jack's Disposal which charges \$44.22 every two months for its services (waste, yard waste and recyclables). Pursuant to City policy, residents of newly-annexed areas may continue to use their current refuse hauler for up to five years. Residents may choose to transition at any time during this period. The City's current residential rate is \$19.86 per month for once-a-week pick up and includes the provision of containers for normal, recyclable and green waste. Commercial rates vary depending on the type and frequency of pick up.
- Fire protection services are currently the responsibility of County Service Area 38 (CSA 38) and its Improvement Zone L for paramedic service. However, the County has contracted with the City of San Bernardino since 1998 to provide fire protection and paramedic services within the seven (7) unincorporated islands in the City's sphere of influence which are a part of CSA 38. In addition, paramedic service is funded through a special tax associated with CSA 38 Improvement Zone L. Upon annexation (and detachment of this area from CSA 38 and its Improvement Zone L), these

services will officially transition to the responsibility of the City of San Bernardino Fire Department. As a condition of approval, the staff is recommending that the City succeed to the special tax imposed by CSA 38 Improvement Zone L for future funding of paramedic services. Currently the rate charged is: \$19 per dwelling unit (charges are assessed by number of units for apartments/multi family dwellings) and \$38 for commercial properties.

- Streetlights are currently funded in the area through County Service Area SL-1 within this area. While the Plan for Service does not specifically outline the transfer of this responsibility, the Commission's adopted policy requires documentation of the transfer of this responsibility through verification of lighting facilities to be transferred and requiring the submission by the City of a signed form authorizing the transfer upon completion of the annexation. Staff has included this condition in its recommendation for approval. There are 29 lights to be transferred and it is estimated that the annual cost of operation is \$3,000 (approximately \$100 per year energy costs). The property tax transfer from CSA SL-1 to the City is \$6,694, which exceeds the cost of continuing this service.

As required by Commission policy and State law, the Plan for Service submitted by the City of San Bernardino shows that the extension of its services will maintain, and/or exceed, current service levels provided through the County.

The territory of LAFCO 3049 is included in the Inland Valley Development Authority (hereinafter IVDA), the redevelopment agency for the San Bernardino International Airport (former Norton Air Force Base facility). The annexation of the territory within LAFCO 3049 has no effect on this agency as it is regional in nature. However, staff has requested clarification from the County Auditor/Controller-Recorder's Property Tax Division regarding the effect of the annexation on the distribution of the redevelopment agency revenues. Property Tax Division staff have indicated that the existing pass-through agreements between the City of San Bernardino and the IVDA will be applied to this proposal, so that a share of the property tax increment from the area will be provided to the City along with the frozen property tax base being transferred as a function of this annexation.

ENVIRONMENTAL CONSIDERATIONS:

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed this proposal and has indicated that it his recommendation that this island annexation is statutorily exempt from the California Environmental Quality Act (CEQA). This determination is based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. Such a "ministerial action" is exempt from environmental review pursuant to Section

15268 of the State CEQA Guidelines. A copy of Mr. Dodson’s analysis is included as Attachment #5 to this report. It is recommended that the Commission adopt the statutory exemption for this proposal and direct the Clerk of the Commission to file a Notice of Exemption with the appropriate agency within five days.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters Office has determined that the study area is legally inhabited, containing 541 registered voters as of April 18, 2006.
2. The study area is within the sphere of influence assigned the City of San Bernardino.
3. The County Assessor’s Office has determined that the assessed valuation of land and improvements for the area is \$44,527,674 (\$8,844,590 land; \$35,683,084 improvements).
4. LAFCO staff has provided individual notices to landowners (totaling 146 notices) and registered voters (totaling 541 notices) within the annexation area and to landowners and registered voters surrounding the study area (totaling 889 notices) in accordance with State law and adopted Commission policies. To date no expression of either support or opposition has been received.
5. Legal advertisement of the Commission’s consideration has been provided through publication in *The Sun*, a newspaper of general circulation within the study area. In addition, individual notice has been provided to registered voters and landowners within the annexation area, and to registered voters and landowners located within roughly 1,350 feet of the exterior boundary of the annexation site.
6. The City of San Bernardino pre-zoned its sphere of influence in May, 1991, when it consolidated its General Plan Land Use Map and Zoning Map. These land use determinations were carried forward with the adoption of the City’s Updated General Plan in November 2005. The land use designations to be applied to this area upon annexation are: “RM” residential medium allowing for up to 14 dwelling units per gross acre, “RS” residential suburban allowing for up to 4.5 dwelling units per gross acre, and “CG” commercial general. Pursuant to the provisions of Government Code Section 56375(e), these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council at a public hearing.

7. The Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that the review of this island annexation is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is ministerial, in that based upon the findings required by Government Code Section 56375(a), the Commission has no discretion in its action on the proposal other than approval. Therefore, a statutory exemption as authorized under Section 15268 of the State CEQA Guidelines is appropriate. A copy of Mr. Dodson's response is included for the Commission's review as Attachment #5 to this report.
8. Upon annexation, the City of San Bernardino will extend its services as required by the existing and anticipated land use. The City has submitted a "Plan for Service" as required by law which indicates that revenues are anticipated to be sufficient to provide the level of services identified by the City for such items as law enforcement, fire protection, planning, street maintenance, etc. The Plan notes that additional personnel may be required for provision of law enforcement services and other services to the annexation area. Water and sewer service to this area is currently provided by the East Valley Water District and will not be changed following this annexation. A copy of this Plan is included for the Commission's review as Attachment #2.

The City of San Bernardino has indicated in its application and Plan for Service that its 8% utility tax will not be extended to this area upon annexation, and staff has included a condition in its recommendation for approval that indicates that the utility tax will not be applied to the island annexation area.

The existing special tax authorized for County Service 38 Improvement Zone L (paramedics) will be transferred to the City of San Bernardino upon completion of its detachment as the successor to this service. This special tax, authorized by the voters within CSA 38 Improvement Zone L, will be required to be identified on behalf of and transferred to the City Fire Department for the provision of paramedic services in future fiscal years.

The Property Tax Division of the County Auditor/Controller-Recorder's office has indicated that the existing pass-through agreements related to the Inland Valley Development Agency and City of San Bernardino shall apply to this area upon completion of the annexation.

9. The area in question is presently served by the following public agencies:

County of San Bernardino
Inland Empire Resource Conservation District

East Valley Water District
San Bernardino Valley Municipal Water District
San Bernardino Valley Water Conservation District
County Service Area SL-1
County Service Area 38 and its Improvement Zone L
County Service Area 70
Inland Valley Development Agency

CSA SL-1, CSA 38, CSA 38 Improvement Zone L, and CSA 70 will be detached through successful completion of this annexation. None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries as they are regional in nature.

10. The annexation proposal complies with Commission policies and directives and State law that indicate the preference for all island areas to be included within the boundaries of the City surrounding them to provide for a more efficient and effective service delivery system.
11. All notices required by State law and local Commission policies have been provided. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, no protest or opposition to this annexation and the island annexation provisions have been received.
12. The study area can benefit from the availability of municipal-level services from the City of San Bernardino.
13. This proposal will have minimal effect on the City of San Bernardino's ability to achieve its fair share of the regional housing needs as it is primarily built-out residential uses. The undeveloped residential lands represent less than 5% of the territory.
14. The County of San Bernardino and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
15. The map and legal description, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

CONCLUSION:

It is the staff's determination that LAFCO 3049 is essentially a ministerial action. This determination is based upon the finding that the Commission is required by

Government Code Section 56375(a) to approve this proposal if it makes the mandatory findings outlined in Section 56375.3. Staff believes these findings are easily made in this case, as follows:

- The study area consists of 99 +/- acres total, less than the 150 acre threshold as defined in §56375.3;
- It is wholly surrounded by City boundaries;
- It is within the City of San Bernardino sphere of influence;
- It is substantially developed or developing;
- It does not contain any prime agricultural land; and,
- It has benefited and can benefit from the availability of municipal services from the City of San Bernardino.

If the Commission concurs with these staff determinations, then it is required to approve this proposal, regardless of any protest that might be submitted at the hearing. State law also gives the Commission the ability to waive the protest hearing on this proposal, and staff recommends that the Commission take that action as part of its approval of this proposal.

KRM

Attachments:

- 1 -- Maps – Vicinity and Location
- 2 -- City of San Bernardino Application and Plan for Service
- 3 -- Government Code Section 56375 and 56375.3
- 4 -- Letter Dated May 4, 2006 from City of San Bernardino Development Services Department
- 5 -- Letter from Tom Dodson and Associates
- 6 -- Draft Resolution No. 2924